

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN THE MATTER OF:)
)
JAMES J. BOWIE) CASE NO. 04-15595
)
Debtor)

DECISION AND ORDER

At Fort Wayne, Indiana, on April 29, 2005

The notice of motion and opportunity to object which Mutual Federal Savings Bank (hereinafter “Movant”) served in connection with its Application for Abandonment and Motion for Relief from Stay does not comply with the requirements of N.D. Ind. L.B.R. B-2002-2 because:

- a. The notice does not correctly state the date upon which the motion was filed. N.D. Ind. L.B.R. B-2002-2(c)(2). The motion was filed on April 13, 2005, while the notice refers to a motion filed on April 8, 2005.
- b. The notice does not adequately “state the relief sought” by the motion. N.D. Ind. L.B.R. B-2002-2(c)(3).
- c. The notice does not “contain a brief summary of the ground for the motion or have a copy of the motion attached to it.” N.D. Ind. L.B.R. B-2002-2(c)(4). Although the notice states that a copy of the motion is attached to it, there is no attachment to the notice filed with the court.
- d. The notice was issued and served before the motion was filed. Can the opportunity to object to particular relief begin to run before that relief is requested? Could a defendant’s obligation to answer a complaint arise before suit is filed?

Since creditors and parties in interest have not been given appropriate notice of the motion and the opportunity to object thereto, the court cannot grant it at this time. Movant shall prepare and serve an Amended Notice of Motion and Opportunity to Object which complies with N.D. Ind. L.B.R. B-2002-2 and file a proof thereto within fourteen (14) days of this date. See, N.D. Ind. L.B.R.

B-9013-4(a). The failure to do so will result in the motion being denied without prejudice and without further notice.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court